

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	2

MR. SPEAKER:

Your Committee on Public Health, to which was referred Senate Bill 161, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning health.
- 3 Page 1, line 8, after "interest" insert ", **in accordance with this**
- 4 **section,**".
- 5 Page 1, line 15, after "interest" insert ", **in accordance with this**
- 6 **section,**".
- 7 Page 2, line 18, after "interest" insert ", **in accordance with this**
- 8 **section,**".
- 9 Page 2, between lines 31 and 32, begin a new paragraph and insert:
- 10 **"(f) Interest is due under this section only when the**
- 11 **overpayment is the result of the provider violating a federal or**
- 12 **state statute, rule, or published Medicaid policy.**
- 13 **(g) The office of the secretary may reduce the amount of**
- 14 **interest under this section in any of the following circumstances:**

(1) There was a significant delay in:

(A) the timely identification of the overpayment by the office; or

(B) the timely response to an appeal filed under IC 12-15-13-3(b); and

the provider and the office mutually agree on the reduced interest amount.

(2) Other compelling circumstances as determined on a case by case basis by the office."

Page 2, line 32, delete "(f)" and insert "**(h)**".

Page 2, after line 32, begin a new paragraph and insert:

"SECTION 2. IC 12-15-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The rules adopted under section 2 of this chapter must include the following:

(1) Providing for prior review and approval of medical services.

(2) Specifying the method of determining the amount of reimbursement for services.

(3) Establishing limitations that are consistent with medical necessity concerning the amount, scope, and duration of the services and supplies to be provided. The rules may contain limitations on services that are more restrictive than allowed under a provider's scope of practice (as defined in Indiana law).

(4) Denying payment or instructing the contractor under IC 12-15-30 to deny payment to a provider for services provided to an individual or claimed to be provided to an individual if the office after investigation finds any of the following:

(A) The services claimed cannot be documented by the provider.

(B) The claims were made for services or materials determined by licensed medical staff of the office as not medically reasonable and necessary.

(C) The amount claimed for the services has been or can be paid from other sources.

(D) The services claimed were provided to a person other than the person in whose name the claim is made.

(E) The services claimed were provided to a person who was not eligible for Medicaid.

- 1 (F) The claim rises out of an act or practice prohibited by law
2 or by rules of the secretary.
- 3 (5) Recovering payment or instructing the contractor under
4 IC 12-15-30-3 to recover payment from a provider for services
5 rendered to an individual or claimed to be rendered to an individual
6 if the office after investigation finds any of the following:
- 7 (A) The services paid for cannot be documented by the
8 provider.
- 9 (B) The amount paid for such services has been or can be paid
10 from other sources.
- 11 (C) The services were provided to a person other than the
12 person in whose name the claim was made and paid.
- 13 (D) The services paid for were provided to a person who was
14 not eligible for Medicaid.
- 15 (E) The paid claim rises out of an act or practice prohibited by
16 law or by rules of the secretary.
- 17 (6) Recovering interest **as provided for in IC 12-15-13-3:**
- 18 (A) at a rate that is the percentage rounded to the nearest whole
19 number that equals the average investment yield on state money
20 for the state's previous fiscal year, excluding pension fund
21 investments, as published in the auditor of state's
22 comprehensive annual financial report; and
- 23 (B) accruing from the date of overpayment;
24 on amounts paid to a provider that are in excess of the amount
25 subsequently determined to be due the provider as a result of an
26 audit, a reimbursement cost settlement, or a judicial or an
27 administrative proceeding.
- 28 (7) Paying interest to providers:
- 29 (A) at a rate that is the percentage rounded to the nearest whole
30 number that equals the average investment yield on state money
31 for the state's previous fiscal year, excluding pension fund
32 investments, as published in the auditor of state's
33 comprehensive annual financial report; and
- 34 (B) accruing from the date that an overpayment is erroneously
35 recovered by the office until the office restores the
36 overpayment to the provider.
- 37 (8) Establishing a system with the following conditions:

1 (A) Audits may be conducted by the office after service has
 2 been provided and before reimbursement for the service has
 3 been made.

4 (B) Reimbursement for services may be denied if an audit
 5 conducted under clause (A) concludes that reimbursement
 6 should be denied.

7 (C) Audits may be conducted by the office after service has
 8 been provided and after reimbursement has been made.

9 (D) Reimbursement for services may be recovered if an audit
 10 conducted under clause (C) concludes that the money
 11 reimbursed should be recovered.

12 SECTION 3. IC 12-15-23-3 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. An agreement under
 14 section 2 of this chapter:

15 (1) **except as provided in IC 12-15-13-3**, must include a
 16 provision for the collection of interest on the amount of the
 17 overpayment; and

18 (2) may include any other provisions agreed to by the
 19 administrator and the provider.

20 SECTION 4. IC 12-26-7-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does
 22 not apply to the commitment of an individual if the individual has
 23 previously been committed under IC 12-26-6.

24 (b) A proceeding for the commitment of an individual who appears
 25 to be suffering from a chronic mental illness may be begun by filing
 26 with a court having jurisdiction a written petition by any of the
 27 following:

28 (1) A health officer.

29 (2) A police officer.

30 (3) A friend of the individual.

31 (4) A relative of the individual.

32 (5) The spouse of the individual.

33 (6) A guardian of the individual.

34 (7) The superintendent of a facility where the individual is present.

35 (8) A prosecuting attorney in accordance with IC 35-36-2-4.

36 (9) A prosecuting attorney or the attorney for a county office if
 37 civil commitment proceedings are initiated under IC 31-34-19-3 or

1 IC 31-37-18-3.

2 **(10) A third party that contracts with the division of mental**
 3 **health and addiction to provide competency restoration**
 4 **services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.**

5 SECTION 5. IC 27-4-1-4, AS AMENDED BY P.L.178-2003,
 6 SECTION 35, AS AMENDED BY P.L.201-2003, SECTION 2, AND
 7 AS AMENDED BY P.L.211-2003, SECTION 1, IS CORRECTED AND
 8 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:
 9 Sec. 4. The following are hereby defined as unfair methods of
 10 competition and unfair and deceptive acts and practices in the business
 11 of insurance:

12 (1) Making, issuing, circulating, or causing to be made, issued, or
 13 circulated, any estimate, illustration, circular, or statement:

14 (A) misrepresenting the terms of any policy issued or to be
 15 issued or the benefits or advantages promised thereby or the
 16 dividends or share of the surplus to be received thereon;

17 (B) making any false or misleading statement as to the
 18 dividends or share of surplus previously paid on similar
 19 policies;

20 (C) making any misleading representation or any
 21 misrepresentation as to the financial condition of any insurer,
 22 or as to the legal reserve system upon which any life insurer
 23 operates;

24 (D) using any name or title of any policy or class of policies
 25 misrepresenting the true nature thereof; or

26 (E) making any misrepresentation to any policyholder insured
 27 in any company for the purpose of inducing or tending to
 28 induce such policyholder to lapse, forfeit, or surrender ~~his~~ *the*
 29 *policyholder's* insurance.

30 (2) Making, publishing, disseminating, circulating, or placing
 31 before the public, or causing, directly or indirectly, to be made,
 32 published, disseminated, circulated, or placed before the public, in
 33 a newspaper, magazine, or other publication, or in the form of a
 34 notice, circular, pamphlet, letter, or poster, or over any radio or
 35 television station, or in any other way, an advertisement,
 36 announcement, or statement containing any assertion,
 37 representation, or statement with respect to any person in the

1 conduct of ~~his~~ *the person's* insurance business, which is untrue,
2 deceptive, or misleading.

3 (3) Making, publishing, disseminating, or circulating, directly or
4 indirectly, or aiding, abetting, or encouraging the making,
5 publishing, disseminating, or circulating of any oral or written
6 statement or any pamphlet, circular, article, or literature which is
7 false, or maliciously critical of or derogatory to the financial
8 condition of an insurer, and which is calculated to injure any
9 person engaged in the business of insurance.

10 (4) Entering into any agreement to commit, or individually or by
11 a concerted action committing any act of boycott, coercion, or
12 intimidation resulting or tending to result in unreasonable restraint
13 of, or a monopoly in, the business of insurance.

14 (5) Filing with any supervisory or other public official, or making,
15 publishing, disseminating, circulating, or delivering to any person,
16 or placing before the public, or causing directly or indirectly, to be
17 made, published, disseminated, circulated, delivered to any person,
18 or placed before the public, any false statement of financial
19 condition of an insurer with intent to deceive. Making any false
20 entry in any book, report, or statement of any insurer with intent
21 to deceive any agent or examiner lawfully appointed to examine
22 into its condition or into any of its affairs, or any public official to
23 which such insurer is required by law to report, or which has
24 authority by law to examine into its condition or into any of its
25 affairs, or, with like intent, willfully omitting to make a true entry
26 of any material fact pertaining to the business of such insurer in
27 any book, report, or statement of such insurer.

28 (6) Issuing or delivering or permitting agents, officers, or
29 employees to issue or deliver, agency company stock or other
30 capital stock, or benefit certificates or shares in any common law
31 corporation, or securities or any special or advisory board
32 contracts or other contracts of any kind promising returns and
33 profits as an inducement to insurance.

34 (7) Making or permitting any of the following:

35 (A) Unfair discrimination between individuals of the same class
36 and equal expectation of life in the rates or assessments
37 charged for any contract of life insurance or of life annuity or

1 in the dividends or other benefits payable thereon, or in any
 2 other of the terms and conditions of such contract; however,
 3 in determining the class, consideration may be given to the
 4 nature of the risk, plan of insurance, the actual or expected
 5 expense of conducting the business, or any other relevant
 6 factor.

7 (B) Unfair discrimination between individuals of the same class
 8 involving essentially the same hazards in the amount of
 9 premium, policy fees, assessments, or rates charged or made
 10 for any policy or contract of accident or health insurance or in
 11 the benefits payable thereunder, or in any of the terms or
 12 conditions of such contract, or in any other manner whatever;
 13 however, in determining the class, consideration may be given
 14 to the nature of the risk, the plan of insurance, the actual or
 15 expected expense of conducting the business, or any other
 16 relevant factor.

17 (C) Excessive or inadequate charges for premiums, policy
 18 fees, assessments, or rates, or making or permitting any unfair
 19 discrimination between persons of the same class involving
 20 essentially the same hazards, in the amount of premiums,
 21 policy fees, assessments, or rates charged or made for:

22 (i) policies or contracts of reinsurance or joint reinsurance,
 23 or abstract and title insurance;

24 (ii) policies or contracts of insurance against loss or damage
 25 to aircraft, or against liability arising out of the ownership,
 26 maintenance, or use of any aircraft, or of vessels or craft,
 27 their cargoes, marine builders' risks, marine protection and
 28 indemnity, or other risks commonly insured under marine, as
 29 distinguished from inland marine, insurance; or

30 (iii) policies or contracts of any other kind or kinds of
 31 insurance whatsoever.

32 However, nothing contained in clause (C) shall be construed to
 33 apply to any of the kinds of insurance referred to in clauses (A)
 34 and (B) nor to reinsurance in relation to such kinds of insurance.
 35 Nothing in clause (A), (B), or (C) shall be construed as making or
 36 permitting any excessive, inadequate, or unfairly discriminatory
 37 charge or rate or any charge or rate determined by the department

1 or commissioner to meet the requirements of any other insurance
2 rate regulatory law of this state.

3 (8) Except as otherwise expressly provided by law, knowingly
4 permitting or offering to make or making any contract or policy
5 of insurance of any kind or kinds whatsoever, including but not in
6 limitation, life annuities, or agreement as to such contract or policy
7 other than as plainly expressed in such contract or policy issued
8 thereon, or paying or allowing, or giving or offering to pay, allow,
9 or give, directly or indirectly, as inducement to such insurance, or
10 annuity, any rebate of premiums payable on the contract, or any
11 special favor or advantage in the dividends, savings, or other
12 benefits thereon, or any valuable consideration or inducement
13 whatever not specified in the contract or policy; or giving, or
14 selling, or purchasing or offering to give, sell, or purchase as
15 inducement to such insurance or annuity or in connection
16 therewith, any stocks, bonds, or other securities of any insurance
17 company or other corporation, association, limited liability
18 company, or partnership, or any dividends, savings, or profits
19 accrued thereon, or anything of value whatsoever not specified in
20 the contract. Nothing in this subdivision and subdivision (7) shall
21 be construed as including within the definition of discrimination or
22 rebates any of the following practices:

23 (A) Paying bonuses to policyholders or otherwise abating their
24 premiums in whole or in part out of surplus accumulated from
25 nonparticipating insurance, so long as any such bonuses or
26 abatement of premiums are fair and equitable to policyholders
27 and for the best interests of the company and its policyholders.

28 (B) In the case of life insurance policies issued on the industrial
29 debit plan, making allowance to policyholders who have
30 continuously for a specified period made premium payments
31 directly to an office of the insurer in an amount which fairly
32 represents the saving in collection expense.

33 (C) Readjustment of the rate of premium for a group insurance
34 policy based on the loss or expense experience thereunder, at
35 the end of the first year or of any subsequent year of insurance
36 thereunder, which may be made retroactive only for such
37 policy year.

(D) Paying by an insurer or ~~agent~~ *insurance producer* thereof duly licensed as such under the laws of ~~this state~~ **Indiana** of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ *insurance producer* thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent~~, **an insurance producer**, or **a** solicitor duly licensed under the laws of this state, but such broker, ~~agent~~, *insurance producer*, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ *producer* or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ *the lender's* right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ *insurance producers* or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or

1 personal property under any contract of sale, conditional sales
 2 contract, or other similar instrument or upon the security of a
 3 chattel mortgage, that the buyer of such property negotiate any
 4 policy of insurance covering such property through a particular
 5 insurance company, ~~agent~~, *insurance producer*, or broker or
 6 brokers. However, this subdivision shall not prevent the exercise
 7 by any seller of such property or the one making a loan thereon of
 8 ~~his, her, or its~~ the right to approve or disapprove of the insurance
 9 company selected by the buyer to underwrite the insurance.

10 (13) Issuing, offering, or participating in a plan to issue or offer,
 11 any policy or certificate of insurance of any kind or character as
 12 an inducement to the purchase of any property, real, personal, or
 13 mixed, or services of any kind, where a charge to the insured is
 14 not made for and on account of such policy or certificate of
 15 insurance. However, this subdivision shall not apply to any of the
 16 following:

17 (A) Insurance issued to credit unions or members of credit
 18 unions in connection with the purchase of shares in such credit
 19 unions.

20 (B) Insurance employed as a means of guaranteeing the
 21 performance of goods and designed to benefit the purchasers
 22 or users of such goods.

23 (C) Title insurance.

24 (D) Insurance written in connection with an indebtedness and
 25 intended as a means of repaying such indebtedness in the event
 26 of the death or disability of the insured.

27 (E) Insurance provided by or through motorists service clubs
 28 or associations.

29 (F) Insurance that is provided to the purchaser or holder of an
 30 air transportation ticket and that:

31 (i) insures against death or nonfatal injury that occurs during
 32 the flight to which the ticket relates;

33 (ii) insures against personal injury or property damage that
 34 occurs during travel to or from the airport in a common
 35 carrier immediately before or after the flight;

36 (iii) insures against baggage loss during the flight to which
 37 the ticket relates; or

- 1 (iv) insures against a flight cancellation to which the ticket
- 2 relates.
- 3 (14) Refusing, because of the for-profit status of a hospital or
- 4 medical facility, to make payments otherwise required to be made
- 5 under a contract or policy of insurance for charges incurred by an
- 6 insured in such a for-profit hospital or other for-profit medical
- 7 facility licensed by the state department of health.
- 8 (15) Refusing to insure an individual, refusing to continue to issue
- 9 insurance to an individual, limiting the amount, extent, or kind of
- 10 coverage available to an individual, or charging an individual a
- 11 different rate for the same coverage, solely because of that
- 12 individual's blindness or partial blindness, except where the
- 13 refusal, limitation, or rate differential is based on sound actuarial
- 14 principles or is related to actual or reasonably anticipated
- 15 experience.
- 16 (16) Committing or performing, with such frequency as to
- 17 indicate a general practice, unfair claim settlement practices (as
- 18 defined in section 4.5 of this chapter).
- 19 (17) Between policy renewal dates, unilaterally canceling an
- 20 individual's coverage under an individual or group health insurance
- 21 policy solely because of the individual's medical or physical
- 22 condition.
- 23 (18) Using a policy form or rider that would permit a cancellation
- 24 of coverage as described in subdivision (17).
- 25 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
- 26 vehicle insurance rates.
- 27 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 28 to interest rate guarantees.
- 29 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 30 coverage for victims of abuse.
- 31 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 32 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 33 insurance producers.
- 34 (24) Violating IC 27-1-38 concerning depository institutions.
- 35 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 36 the resolution of an appealed grievance decision.
- 37 ~~(25)~~ (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or

1 *IC 27-8-5-19.2.*

2 ~~(25)~~ **(27)** *Violating IC 27-2-21 concerning use of credit*
3 *information.*

4 **(28) Violating IC 27-8-11-7 or IC 27-13-15-4 concerning**
5 **provider reimbursement.**

6 SECTION 6. IC 27-8-11-7 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2004]: **Sec. 7. (a) An agreement between an insurer and a**
9 **provider under this chapter may not contain a provision that**
10 **requires the provider to offer to the insurer a reimbursement rate**
11 **that is equal to or lower than the lowest reimbursement rate that**
12 **the provider offers to another insurer.**

13 **(b) A violation of this section by an insurer is an unfair or**
14 **deceptive act or practice in the business of insurance under**
15 **IC 27-4-1-4.**

16 SECTION 7. IC 27-13-15-4 IS ADDED TO THE INDIANA CODE
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2004]: **Sec. 4. (a) A contract between a health maintenance**
19 **organization and a participating provider may not contain a**
20 **provision that requires the participating provider to offer to the**
21 **health maintenance organization a reimbursement rate that is**
22 **equal to or lower than the lowest reimbursement rate that the**
23 **participating provider offers to another health maintenance**
24 **organization.**

25 **(b) A violation of this section by a health maintenance**
26 **organization is an unfair or deceptive act or practice in the**
27 **business of insurance under IC 27-4-1-4.**

28 SECTION 8. IC 35-36-3-1, AS AMENDED BY P.L.215-2001,
29 SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2004]: **Sec. 1. (a) If at any time before the final submission of**
31 **any criminal case to the court or the jury trying the case, the court has**
32 **reasonable grounds for believing that the defendant lacks the ability to**
33 **understand the proceedings and assist in the preparation of his a**
34 **defense, the court shall immediately fix a time for a hearing to determine**
35 **whether the defendant has that ability. The court shall appoint two (2)**
36 **or three (3) competent, disinterested:**

1 (1) psychiatrists; or

2 (2) psychologists endorsed by the Indiana state board of
3 examiners in psychology as health service providers in
4 psychology. ~~or physicians,~~

5 At least one (1) of ~~whom~~ **the individuals appointed under this**
6 **subsection** must be a psychiatrist. ~~who~~ **However, none may be an**
7 **employee or a contractor of a state institution (as defined in**
8 **IC 12-7-2-184). The individuals who are appointed** shall examine the
9 defendant and testify at the hearing as to whether the defendant can
10 understand the proceedings and assist in the preparation of the
11 defendant's defense.

12 (b) At the hearing, other evidence relevant to whether the defendant
13 has the ability to understand the proceedings and assist in the
14 preparation of the defendant's defense may be introduced. If the court
15 finds that the defendant has the ability to understand the proceedings
16 and assist in the preparation of the defendant's defense, the trial shall
17 proceed. If the court finds that the defendant lacks this ability, it shall
18 delay or continue the trial and order the defendant committed to the
19 division of mental health and addiction. ~~to be confined by the division~~
20 ~~in an appropriate psychiatric institution.~~ **The division of mental health**
21 **and addiction shall provide competency restoration services or**
22 **enter into a contract for the provision of competency restoration**
23 **services by a third party in the:**

24 (1) location where the defendant currently resides; or

25 (2) least restrictive setting appropriate to the needs of the
26 defendant and the safety of the defendant and others.

27 **However, if the defendant is serving an unrelated executed**
28 **sentence in the department of correction at the time the**
29 **defendant is committed to the division of mental health and**
30 **addiction under this section, the division of mental health and**
31 **addiction shall provide competency restoration services or enter**
32 **into a contract for the provision of competency restoration**
33 **services by a third party at a department of correction facility**
34 **agreed upon by the division of mental health and addiction or the**
35 **third party contractor and the department of correction.**

36 SECTION 9. IC 35-36-3-2, AS AMENDED BY P.L.215-2001,

SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Whenever the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense: ~~the division of mental health and addiction, through~~

(1) the superintendent of the ~~appropriate psychiatric state~~ institution (as defined by IC 12-7-2-184); or

(2) the director or medical director of the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party;

shall certify that fact to the proper court, which shall enter an order directing the sheriff to return the defendant. The court ~~may~~ shall enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.

SECTION 10. IC 35-36-3-3, AS AMENDED BY P.L.215-2001, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Within ninety (90) days after:

(1) a defendant's ~~admittance to a psychiatric institution, the superintendent of the psychiatric institution~~ admission to a state institution (as defined in IC 12-7-2-184); or

(2) the initiation of competency restoration services to a defendant by a third party contractor;

the superintendent of the state institution (as defined in IC 12-7-2-184) or the director or medical director of the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future.

(b) If a substantial probability does not exist, the ~~division of mental health and addiction state institution (as defined in IC 12-7-2-184)~~ or the third party contractor shall initiate regular commitment

proceedings under IC 12-26. If a substantial probability does exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or third party contractor** shall retain the defendant:

(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ admission to a state institution (as defined in IC 12-7-2-184); or

(B) initiation of competency restoration services by a third party contractor;

whichever first occurs.

SECTION 11. IC 35-36-3-4, AS AMENDED BY P.L.215-2001, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the:

(1) defendant's ~~admittance to a psychiatric institution; the division of mental health and addiction~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(2) initiation of competency restoration services by a third party contractor;

the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26.

SECTION 12. [EFFECTIVE JULY 1, 2004] **(a) IC 27-8-11-7, as added by this act, applies to an agreement between an insurer and a provider that is entered into, amended, or renewed after June 30, 2004.**

(b) IC 27-13-15-4, as added by this act, applies to a contract between a health maintenance organization and a participating provider that is entered into, amended, or renewed after June 30,

- 1 **2004."**
- 2 Renumber all SECTIONS consecutively.
 (Reference is to SB 161 as printed January 16, 2004.)

and when so amended that said bill do pass.

Representative Brown C